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SIXTH MEETING

OF THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

WITH

MEMBERS

OF THE

COMMITTEE'S NATIONAL ADVISORY COUNCIL

APRIL 30, 1986

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Mr. Frank Carroll, Carrolline Travel, Worcester, MA.
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Mr. Timothy Fine, Esq., San Francisco, CA.
Mr. Walter Floss, Jr., Floss Insurance Agency, East Amherst, NY.
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Mr. Shaw Mudge, Sr., Shaw Mudge & Co., Stamford, CT.
Mr. Bill Nourse, Brookmeade Hardware & Supply, Nashville, TN.
Mr. James L. Simpson, HEMOX, Inc., Melbourne, FL.
Mr. Larry A. Stanley, president and general manager, Empire Bolt & Screw, Inc., Spokane, WA.
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Mr. Rufus Tindol, president, Tindol Services, Inc., Atlanta, GA.
Mr. Edward Smith, Smith Paper Co., Pine Bluffs, AR.
Mr. Michael W. Zaloudek, Woodward, OK.
Mr. Robert Baker, senior vice president, Essex Bank, Peabody, MA.

Observer:

Mr. Robert Baker, Peabody, MA.

NATIONAL ADVISORY COUNCIL MEETING

AGENDA

Tuesday, April 29, 1986

1:00–2:00 p.m.	Dr. Rudolph Penner Director Congressional Budget Office
2:00–2:40 p.m.	Honorable Paul Volcker Chairman Federal Reserve Board
3:00–3:45 p.m.	Honorable David Pryor (D–Ark.) Member Senate Committee on Finance
3:45–4:00 p.m.	BREAK
4:00–6:00 p.m.	Discussion of Issues To Be Presented to Committee (Resolution Drafting Session)

Wednesday, April 30, 1986

8:30–9:30 a.m.	Review Resolutions
9:30–12:00 p.m.	Sixth Annual Meeting of the Small Business Committee's National Advisory Council
12:30–1:45 p.m.	LUNCH—S–138, Capitol
2:00 p.m.	ADJOURNMENT

SIXTH MEETING OF THE NATIONAL ADVISORY COUNCIL TO THE SENATE COMMITTEE ON SMALL BUSINESS

WEDNESDAY, APRIL 30, 1986

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The council met, pursuant to notice, at 9:48 a.m., in room SR-428A, Russell Senate Office Building, Mr. Shaw Mudge, presiding.

Mr. MUDGE. Let us begin the formal session.

Why don't we start with Asta and why don't each one of you introduce yourselves and what your business is, and then we will take it from there.

Ms. BALL. I am Asta Ball, Miniature Nut & Screw Corp., a small manufacturing company in Newington, CT.

Mr. BOWDEN. I am Herb Bowden, and the name of our company is Sencore in Sioux Falls, SD. We manufacture electronic test equipment. I have about 300 employees, and we distribute nationally and internationally.

Mr. FUENTES. I am Alan Fuentes, president of Computer Dynamics, Inc. in Virginia Beach, VA.

Mr. CARROLL. I am Frank Carroll, president of Small Business Service Bureau which is a for-profit organization of 38,000 small business people.

Ms. MCCOY. I am Judy McCoy from Dubuque, IA. I run McCoy Goldsmiths and Jewelers. We are gold work designers and also run a retail operation.

Mr. HENNESSEE. I am Odus Hennessee from Lawton, OK. I am president of Cosmetics Specialty Labs, Inc. We are a private label cosmetics manufacturing company specializing in skin care, hair care, and body care products.

Ms. ABLAN. I am Thelma Ablan from Chicago, IL. I have a management consulting firm specializing in small business consulting.

Mr. LEFKIADES. I am Michael Lefkiades. I own a chain of fast food restaurants.

Mr. DUNCAN. I am John Duncan from Bozeman, MT. I am president of Tele-tech Corp. We manufacture radio frequency and microwave components and subsystems.

Mr. NOURSE. I am Bill Nourse from Nashville, TN. I am in the hardware and supply business and wholesale maintenance and janitorial supplies.

Mr. TINDOL. I am Red Tindol from Atlanta. I am in the pest control and building cleaning business. I am also chairman of the Georgia Small Business Association.

Mr. SMITH. I am Ed Smith with Smith Paper Co. in Pine Bluff, AR. We are a wholesale paper distributor.

Mr. MUDGE. I am Shaw Mudge. We manufacture fragrances for cosmetics, toiletries, soap, household products, and exterminating companies in Mexico City; Stamford, CT; and Sao Paulo; London; and Singapore.

Mr. SIMPSON. I am Jim Simpson, founder and principal of Hemox Inc. out of Melbourne, FL. We develop and manufacture and market medical devices primarily to hospitals. We do some exporting and importing.

Mr. STANLEY. I am Larry Stanley of Spokane, WA. I own and manage Empire Bolt & Screw which is a wholesale distributor of threaded products.

Mr. ZALOUDEK. I am Michael Zaloudek. I am with Pope Distributing Co. We are a wholesale beer distributor in northwest Oklahoma.

Mr. CRAWFORD. I am Chuck Crawford. I am president of a company called Kimball Physics up in Wilton, NH. We make focus beams of charged particles. I am also president this year of the New Hampshire High Tech Council.

Mr. FLOSS. I am Walter Floss. I have spent 40 years in general insurance.

Mr. MOHS. I am Fred Mohs from Madison, WI. I am an attorney and real estate developer for communications and TV.

Ms. KRUGLICK. I am Gay Kruglick from Phoenix, AZ. I am president of Joy Etcetera, doing business as Earl's Academy, a cosmetology school in Phoenix, AZ and I am a small business advocate in numerous organizations.

Mr. FINE. My name is Tim Fine. I am from San Francisco, CA. I am an attorney who specializes in representing only the interests of small business.

In 1982, I founded an organization which I think some of you should be interested in called the Small Business Legal Defense Foundation. I was very upset when every time there was an important case before the Supreme Court affecting business, and small business in particular, they got friend of the court briefs—these are called amicus curae briefs—from the Business Roundtable, the conference board, and the National Association of Manufacturers telling the Court what the case would do to big business. But no one was filing these briefs for small business.

This foundation is designed to give the Court what the case will do in terms of affecting small business.

I am also happy to say I am the chairman of the northern California delegation to the White House Conference on Small Business.

Senator WEICKER. Shaw, how do you want to proceed? Would you like me to make a few comments now, or would you like to proceed with a discussion of the membership, raise the issues that they would like a response to? How would you like to handle this?

Mr. MUDGE. I think the council would like to have some comments from you first, Senator.

Senator WEICKER. As you know, the concerns right now of the committee pretty much center around the administration's attempt to dismantle the Small Business Administration. You have all been tracking exactly what has occurred over the past year. Our work culminated in the enactment of a 3-year reauthorization for the Small Business Administration which was amenable to the administration and reduced or eliminated various programs of SBA.

The reauthorization bill became law several weeks ago as a part of the reconciliation package and, of course, the budget figures were voted previously.

I can only tell you this, that during that process in negotiations with David Stockman representing the administration and the Republican leadership of the Senate represented principally by Pete Domenici with his allies being Senator Boschwitz and Senator Gorton who are on the committee, all those negotiations were intense. By intense I mean that I was, quite frankly, I was a little put out because various members of the committee were carrying the ball for the administration. I am not telling anything out of school that I haven't said publicly, but I think it has a bearing on what occurred later.

To make a long story short, we arrived at a compromise which achieved $2.5 billion in outlay savings. So, we made our contribution to the budget deficit reduction effort.

I thought that put the matter to rest. Lo and behold, the administration renews its attempt to eliminate the agency, removes Jim Sanders as the Administrator, and puts in his place an Acting Administrator Charles Heatherly, which brings me to where we are now.

The only matter we have before us is the budget for fiscal year 1988. With the authorization bill having been signed for 3 years, there is no question but what is the law. I suppose it is possible to in effect alter the law through the budgetary process, and that is what the administration tried to do in its recommendations for the 1987 fiscal year budget.

The difficulties there are, No. 1, for the administration, Senators such as Boschwitz and Gorton who were a part of the agreement that was hammered out last year said, no, we agreed, and that is that. We will not participate in any effort to dismantle the agency. So, they have lost their allies on the committee.

So, the first question I think needs to be answered is can they achieve budgetarily what they are unable to achieve by the authorizing legislation. At the present time, I would say that the Small Business Administration is probably going to take another nick. However, there is nothing in either Senator Domenici's budget nor in the committee proposals that would give any support for the administration's idea to eliminate SBA as an independent agency. So, budgetarily, even though maybe at some reduced level, the Small Business Administration will be going along as before.

I suppose the more difficult question to answer is, what do you do about a man like Mr. Heatherly? Or, on the positive side, how can you really lead an organization unless you have an Administrator running it, somebody who is dedicated to the Small Business Administration?

The hearing that we had several days ago hopefully got a message across to Heatherly. I rather doubt it. The man is an ideologue and totally committed to a philosophy.

I can say this, though, that there is even at this time a serious attempt at dialog between the Senate and the White House. The White House, I think, is very much disturbed by the hoopla that has been raised by Mr. Heatherly.

Again, to repeat the changed circumstances between last year and now, just as the committee as a whole has coalesced around the agency, both Republicans and Democrats—Democrats, I might add, are staunch and terrific in their support of the Small Business Administration and their opposition to eliminating it—so it is also true that the one salutary effect of Mr. Heatherly's appearance on the scene has been to unify all the small business groups.

Last year when I was in my battle with the White House, we had some small business groups and we didn't have others. There was sort of a mix and match out there as to just what these organizations wanted or didn't want. Now, everybody within that community is as one in their opposition to Heatherly and the total dismantling or transfer of the agency.

If you ask me where do I think we are going, I think that we will have a budget that is sufficient to have the agency go along as it is now structured. If the small business community and, more particularly, the White House Conference on Small Business is vocal in its feelings, I have no doubt the White House will back off. You just cannot ignore such an important constituency and, with respect to my Democratic friends, a constituency—and I should almost put myself in the same category—maybe in a partisan way, the small business community, I think, is overwhelmingly Republican.

I don't think the President can afford to ignore that constituency. The only way the ends of the administration are going to be achieved is if people keep quiet. I want to get that message across. This is not a time to be quiet. You have the Congress going for you. You have various organizations going for you.

Ironically, and I think this is a very good parallel to make, the reason why the legislative attempt by the administration will not pass is that when the Senate Small Business Committee became a full committee with legislative powers, the way the committee's jurisdiction was written required any piece of legislation affecting the Small Business Administration eventually to be referred to this committee, regardless of any other committee it was referred to.

Any elimination of the Small Business Administration would have to go initially to the Senate Governmental Affairs Committee. Any reorganization in Government goes to that Senate committee. Normally, it would be sufficient for that committee to report out its recommendations and go directly to the floor. The way the Senate rules were drafted several years ago when this committee became a standing committee was that anything that touched upon the Small Business Administration had to be referred to the committee.

So, even if Government Operations reports out a bill—I don't think they will do it, but let's assume that they did—that bill

would have to be referred to this committee, and it is never going to see the light of day as far as this committee is concerned.

I use that as a parallel because it was at the insistence of the small business community several years ago that this committee became a standing committee and those rules were put on the books. So, the fact that small business made its voice known 3 or 4 years ago is probably going to be responsible for saving the Small Business Administration in the year 1986.

That is where we stand. I want to say one last word, because I think that it is terribly important for me to convey. I am going to have to sort of preach to the choir, but to convey to everybody wherever I can my pride in the way all of you—and we have listened to you as a committee—all of you in the small business community and Jim Sanders and this committee have radically changed the Small Business Administration and what it does over the past several years.

In other words, nobody is advocating status quo. Jim Sanders internally cleaned up the Small Business Administration to make a very fine operating unit. The Reagan administration changed many of the programs. Many of you had suggestions which have been since translated into law and changed programs or instituted other matters of legislation.

So, this isn't the same matter that we are dealing with, but it is not in the scene, let's say, 5 or 6 years ago. What has been created, I think, can withstand any question of its ability to produce on behalf of the small business community.

So, there is a synopsis of where we are. We are in negotiations with the White House trying to get them to back off. The matter of Domenici and the Senate budget should be resolved in the next 48 hours. Before all is said and done, I will predict to you that the Small Business Administration will be intact through fiscal year 1987, and it would be my hope that the White House would accept this fact of life graciously and send up to the Senate a nomination for a Small Business Administration Administrator and not play games with something that is so important to so many people in this Nation.

This is a good time to ask any questions that you want to ask. I think I have told you everything there is to tell. I have held nothing back, even the fact that we have been in negotiations with the White House. I don't think that is known to the public. So, here is a good time to ask anything that you want to, and either I or Bob Dotchin will respond.

Mr. MUDGE. Thank you very much, Senator Weicker, for having the initiative and the imagination to create this council. It is an enormously effective body. Each one here is well informed. The whole small business movement thanks you for having brought to this point in our Government the opportunity to participate.

If I could, I would like to now start the agenda and lead off with what was item 7 which is the future of the SBA.

Senator WEICKER. Fine. Well, why don't we allow people to ask questions.

Mr. MUDGE. Yes. I was just going to tell Jim we were going to change the order. Please, Jim, go ahead.

Mr. SIMPSON. Let me ask you this, sir. What is the President's motive or reason for wanting to dismantle the SBA?

Senator WEICKER. The question is what is the President's reason or motive for wanting to dismantle the SBA. It is a rather difficult question for me to respond to, but let me say that I think the initial impetus for this by the administration was the belief that they could achieve the enormous budget savings. Would you agree with that, Bob?

Mr. DOTCHIN. Yes.

Senator WEICKER. So, Stockman told them listen, if you can do a, b, c, d, and e, you are going to save X amount, billions of dollars in this budget exercise, and it will be the most painless way to do it because nobody cares and SBA doesn't do anything.

The fallacy in what he presented to the administration is best illustrated by the sale of the loan assets which he put down as some huge figure. Upon questioning, upon examination, we realized that in essence the taxpayers were going to lose in the long run. So, that is one of the fallacies I just wanted to bring to your attention.

Having whetted the appetite of the administration in that area, that is, the achieving of budget savings, I don't think that taste ever went away, and the administration said this is still an area where we can really go ahead and save big money. It was sort of the holdover, the hangover, from that initial Stockman presentation which I think has gone ahead and inspired them to continue their efforts. That would be my guess.

Mr. MUDGE. Gay Kruglick, please.

Ms. KRUGLICK. Senator Weicker, Mr. Chairman, one of the things that bothers me about the gentleman, Mr. Heatherly, who is in the position as SBA Acting Administrator is that from what I have determined in reading his background, this gentleman is not a small business person or a business person at all, for that matter. In addition, the administrative ability and background I don't see either in there.

It bothers me greatly even though I am a Republican and I do support the President, although even the Republican National Committee Small Business National Advisory Council took a strong stand last year and made a strong statement on the maintenance of the SBA. But it bothers me as a small business person when someone is in a level of authority that one of his big problems is because he doesn't have that background, he really doesn't understand what I feel when I pull out my checkbook and have to do payroll and bills and go through what I go through daily with my business.

We must have that kind of person at the head of SBA, and we do have a resolution that doesn't really address the qualifications. I think a lot of the problems, although I understand he has a mission to accomplish, and as I had made a comment concerning someone else who was looking at that position and wanting it, my husband had said to me at the time, well, he won't get it because he isn't supportive of the SBA being done away with. I said, well, then if they aren't going to put a person in there who has a small business background, then they are not going to find a really truly qualified person to serve that position.

I feel very strongly about that, and I think we as a group need to address not only the maintenance of SBA in a leaner form as we all agree—no one has ever disagreed with that—but also that we have someone in there who comes from where we come from so that he understands and we know he understands when we speak to the issues.

Senator WEICKER. I would hope that would be the case. Indeed, if there is a change of heart down the way, let's hope the administration sends up a name to be the Administrator who has the qualifications that you think are important and I think are important, too.

Mr. Heatherly is not in there for his qualifications to give the necessary expertise to deal with small business problems around the United States. He is there strictly to dismantle the agency.

I think if that was to be done, then the President should have been candid and said I am not going to sign the reconciliation bill because I don't want the Small Business Administration. The fact is that he didn't do that. He signed the reauthorization and now has had a great deal of difficulty trying to get anyone to even introduce the legislation to transfer SBA to the Department of Commerce in the Senate.

The administration has a few sponsors over in the House, mainly from the more conservative elements of my party. They are requesting Senators here, Republicans, to go ahead and introduce legislation. It so far has not been introduced.

But I agree with you, either eliminate it or get somebody in there with the qualifications to run it well.

The irony of the situation was it really wasn't Lowell Weicker or Dale Bumpers who blocked the President last year. I will tell you what beat the President. The fact was that his appointee, Jim Sanders, had turned that agency around. If it was the old stable it used to be under both Democratic and Republican administrations, believe me, it could have been killed just like that, but Sanders had shaped it up, and it had more support than it ever had before around the country.

That is what you need in there, somebody like Jim Sanders. So, when people say Sanders was disloyal to the President, that is bunk. The fact was he did exactly what every President would hope his nominee would do, and that is do the best possible job. He did the best possible job. He did a fantastic job with the Small Business Administration, a great source of pride in the administration.

That is what they need in there.

I hope you will address this. I hope you will address it as a group and I hope you will address it in your communities and insist that this thing be run by someone with the interests of a small business background.

Ms. KRUGLICK. Just one more thing. I met and talked with him for over an hour yesterday, and if he were a business person like myself or come from that background and were a true administrator, he would understand why and how he did things that do demoralize the agency employees. Even if he had maybe some psychological background, he would understand what he did and how they react and really understand that there is that perception out

there and there is that feeling. Although he tells himself that there isn't, there is that feeling.

If he were coming from where we are coming from, he would be back there in the background and leave his position there and be able to put a hat on of a former business person and a former employer and know what happens when you do those kinds of things in an agency and how it affects your people and how the perception is like a very tiny thread that grows from mouth to mouth, from feeling to feeling and what that does.

However, because he doesn't have that expertise, he doesn't really understand. He is doing what he is doing coming from where he is coming from, but all of us look at it differently because we come from a different position.

Senator WEICKER. You should know that Rudy Boschwitz made that point superbly during the course of the hearings, relating to his business and the people of his organization. And if he had turned to one of them and made similar remarks over the phone, he said, I would lose half my people out there.

Ms. KRUGLICK. That is right.

Senator WEICKER. Rudy made that point not as a Senator but as a small businessman. Again, I don't think Heatherly understood what he was talking about. No, I don't.

Since we have been talking and people keep on going along this line, may I introduce Senators who have arrived here? We have Senator Sasser from Tennessee, Jim Sasser, who has now joined us. We have my good friend Tom Harkin sitting down over there, and we have Paul Trible from Virginia. I would also like to submit a statement from Senator Dixon.

[The prepared statement of Senator Dixon follows:]

STATEMENT BY SENATOR ALAN J. DIXON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Mr. Chairman, I am happy to participate in this, the sixth meeting of the National Advisory Council.

The small business community, which is responsible for practically all of the new jobs created in our nation, is certainly faced with some important issues, none the least of which is the anxiety and uncertainty over the status of the Small Business Administration. This forum has provided real world insights into the problems and concerns of our nation's small businesses and provides valuable input into our committee's legislative agenda.

I look forward to a productive, meaningful day.

Senator WEICKER. What I did, gentlemen, was to just bring them up to date through the hearing of 2 days ago as to where we stand on this matter of the agency and Mr. Heatherly. We are asking people to comment or ask any questions that they have.

Mr. MUDGE. Bill Nourse.

Mr. NOURSE. Mr. Chairman, Senator Weicker, we have arrived at the point in our deliberations where you are also. We do have two resolutions before the body pertaining to SBA, and I am the sponsor of one of them, but before I get into the resolution itself, I do want to comment on the fact that I was here for the hearings on Monday. I witnessed a great deal of them, and I do agree with your opening comments that the White House will win if small business is not vocal and that the only way the administration really will win is if we are silent.

I think that we as a body that consults and advises you need to be clear and to the point under discussion in this case. I think that when I read my resolution in a minute, you will understand, you particularly and Senator Bumpers, that a great deal of my resolution comes from your letter to the President, comes from what happened on Monday here.

I do agree with your observation and your opening remarks that Mr. Heatherly learned nothing when he was here Monday. Yesterday, I quoted his comments to the Bureau of National Affairs after the hearing on Monday, and I would like to quote them again in case you haven't heard them.

On Monday afternoon after he left here, he was interviewed by the BNA, and I am quoting him now. He said, "The hearings on the 28th don't change anything." He accused the committee of "dealing in rhetoric because they have no evidence that we are dismantling anything."

I think it was clear by every Senator who was here on Monday that while he won't admit to dismantling anything, he definitely is dismantling something, if not by action, by destroying the morale of the agency. And I think we as a body need to address both the direct question and that indirect question, the morale of the agency.

So, I would like to read you my resolution and then point out also what I disagree with in the other resolution.

Whereas the President recently signed the Combined Omnibus Budget Reconciliation Act which authorized the Small Business Administration through 1988,

Whereas Congress and the President have clearly expressed a strong desire to preserve the carefully crafted core of business development programs operated by the Small Business Administration,

Whereas the programs operated by the Small Business Administration have helped the most vital sector of our economy to create the lion's share of new jobs in our economy over the last several years,

Whereas the Small Business Administration and America's small business community are deserving of an SBA Administrator who is dedicated to both the Small Business Administration and the future of small business,

Whereas the actions of the Acting Administrator of the Small Business Administration appear designed to undermine, if not destroy, the Small Business Administration from within,

Whereas the actions of the Acting Administrator of the Small Business Administration directly contradict the course of action for the Small Business Administration agreed upon by Congress,

Whereas it is improper for an individual to embark on a course of radical personnel and management changes in the Small Business Administration, as the Acting Administrator appears to be doing, without being considered by either the Senate Small Business Committee or the Senate as a whole,

Therefore, the members of the National Advisory Council of the Senate Small Business Committee resolve and strongly recommend that Charles Heatherly be removed as Acting Administrator of the Small Business Administration and that a permanent Administrator who will maintain the independence of the agency be appointed forthwith.

I think that is clear, it is to the point, it gets the message across very clearly. I think it is consistent with your opening remarks at the hearing the other day, and I also would like to point out why I disagree with my good friend Tim from San Francisco and his resolution.

I think that the face of the resolution that he has has a lot of things in it that we don't need because they draw attention away from the central fact which is Mr. Heatherly's action. In the last

part of his resolution, he talks about "the President of the United States promptly submit to the Senate the nomination of a permanent Administrator for the Small Business Administration who is committed to maintaining the agency."

I don't think that is clear enough. I think we ought to clearly state we want Mr. Heatherly removed because of his actions. And I think that we need to do this to support your actions, to strengthen your hand in negotiating with the White House, and to send a signal to those people in the administration of the Small Business Administration that there is somebody who is willing to stand behind them. We do not want the morale of that agency destroyed.

Mr. MUDGE. Senator.

Senator WEICKER. Thank you very much, Bill. As you know, I can't get into the discussion except for whatever questions you ask. These are your resolutions. This is your committee and not that of the Senate. I will be glad to respond.

But if I may introduce two other members of the committee who have just joined us, the ranking member, Dale Bumpers—I don't think you could ask for a better partner in crime—and Slade Gorton, the distinguished Senator from Washington.

Mr. MUDGE. I would like to call on Tim Fine, please.

Mr. FINE. I think it is the old adage: We both want to achieve the objective. Which path to take would be the most effective, which would be the most instrumental in getting there and making and keeping SBA as a very vital and necessary advocate in the administration on behalf of America's small business community is the question.

My resolution which, as all of the members of our advisory council thought when we left yesterday was going to be the one that we both backed, apparently Bill had a change of heart last night, but what my resolution says—and I won't read every single whereas clause—is to the effect that, one, "the United States Small Business Administration be fully supported and effectively administered in accordance with the mandate of the Combined Omnibus Budget Reconciliation Act" and, two, that "the President of the United States promptly submit to the Senate the nomination of a permanent Administrator for the Small Business Administration who is committed to maintaining SBA as an independent agency and will vigorously implement its statutory programs."

I do have in the whereas clause the fact that the current Acting Administrator—and this is at the top of page 2—has "embarked on radical personnel and management changes in the agency for the purpose of implementing the administration's position to eliminate the SBA."

But I think in terms of a statement of principle that will be long-lasting—Mr. Heatherly will come and go, as we all know, and he will be just a footnote to history, I am sure, in the few months ahead. But my resolution, I feel, is dedicated to the long term, the overall objectives, and what we all want, not just for the moment, but for the future of our country. We want an SBA that is fully effective, that carries out the mandate of this Congress, and we want a permanent Administrator for the long term who will maintain SBA as an independent, viable agency.

So, I would urge my resolution as a long-term statement of principle. I don't like giving Mr. Heatherly any kind of name recognition. He will be, I hope, long forgotten as a blurp on the body politic.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL IN SUPPORT OF THE U.S. SMALL BUSINESS ADMINISTRATION

Whereas, The United States Small Business Administration was established to address the unique needs and concerns of America's small businesses; and

Whereas, The United States Small Business Administration has provided counsel and assistance for millions of persons wanting to start their own enterprises, and also for those persons who have encountered problems while operating their existing businesses; and

Whereas, America's small businesses are in greater need today than ever before of the services of The United States Small Business Administration as a result of the fact that they are:

(a) experiencing severe economic problems caused by unaffordable or unavailable insurance coverage;

(b) bearing a disproportionate share of the tax burden;

(c) unduly burdened by excessive Federal regulations and paperwork;

(d) being charged greater interest rates and loan fees for capital than competing larger businesses;

(e) not receiving their fair share of federal contracts for goods and services; and

(f) being adversely impacted by the accelerating number of anti-competitive or monopolistic mergers and acquisitions, as well as unreasonable vertical restraints; and

Whereas, the Congress has recently enacted and the President has signed the Combined Omnibus Budget Reconciliation Act reauthorizing the Small Business Administration through 1988, preserving the Small Business Administration's basic core of credit, management assistance and disaster loan programs while coming up with over $2.5 billion in budget outlay reductions over the next 3 years, and

Whereas, since April 1, 1986, the Acting Administrator of the Small Business Administration has embarked on radical personnel and management changes in the agency for the purpose of implementing the Administration's position to eliminate the SBA, Now, therefore, be it

Resolved by the National Advisory Council to the United States Senate Committee on Small Business:

First, that the United States Small Business Administration be fully supported and effectively administered in accordance with the mandate of the Combined Omnibus Budget Reconciliation Act; and

Second, that the President of the United States promptly submit to the Senate the nomination of a permanent Administrator for the Small Business Administration who is committed to maintaining SBA as an independent agency and will vigorously implement its statutory programs.

Mr. MUDGE. John Duncan, did you have a comment to this?

Mr. DUNCAN. Yes, I do. I would just like to ask Senator Weicker what his feelings are. How much damage can further be done to the agency as this man remains, and do you think the damage that has already been done is irreparable?

Senator WEICKER. Interestingly, I don't have the problem that some of my colleagues do with the firings of the six regional Administrators who were political appointees. I don't think anybody would deny that it was handled in a very abrupt manner and not a manner that any of us would employ.

On the other hand, I am deeply concerned, as was pointed out in the hearing, when a man says that one-half of the personnel that are around aren't going to be around, I think two things happen. Those that have the prospect of a job on the outside that are working for the administration are going to leap at the opportunity, and

certainly nobody in their right mind is going to request a job within the Small Business Administration.

So, to that extent, I think there is irreparable damage that has been done, not by virtue of the firing of the six regional Administrators, but by that other statement which indicated that the work force would be one-half of its size at some point in the near future.

Then, I think that the other question that you raise was answered by Bill Nourse to the extent that, having left the committee's hearings, he goes out and addresses another group and says nothing has changed and I am going to continue doing what I am doing. In short, the hearing was nothing more than an exercise in rhetoric.

The one thing that I was very proud of—and those Senators who were at the hearing and any of you who attended—was I made a point to Bob Dotchin before that hearing started there was to be no debate of philosophy or partisanship. I wanted to just stick to the facts of what he was doing and, boy, we stuck to the facts of what he was doing. The answer is that he apparently intends to go his way just as he already has. To that extent, he obviously is going to be able to raise a certain amount of Cain.

There is no legal way that he can't do what he is doing. He is very careful in that respect. That is why this ultimately comes down to the body politic. You are the people who have to make the decision as to whether this is worthwhile or not. It is what you do and others like you do that is going to say to the administration, all right, we might be right legally but this is really costing us political points—I am being very blunt—and we better knock it off. That is the only way this type of operation is going to get knocked off.

Mr. MUDGE. Red Tindol.

Mr. TINDOL. I am not opposing the idea of reprimanding, of doing something about, of putting on record our concern about the Acting Administrator's viewpoints and his actions, but I recall in your statement, Senator Weicker, that you said that the group was now in meeting and in conference with the White House as concerns this matter. I make no attempt here to defend the Acting Administrator.

My only position has been, with all the condemnations in the world, I am reluctant to put into motion here something that can be interpreted politically as telling the President or anybody else what to do as far as firing a man, and that is exactly what this last statement by Bill Nourse says is to get rid of the man.

Now I am concerned with the fact that you people are working so diligently with the White House in this regard, and the White House Conference on Small Business is coming up and is going to address it, too. I am just reluctant to tell the President or anybody else to fire the man. I am hoping that we might take the approach of being critical, as Tim's resolution was, rather than to come out and tell anybody to fire somebody within 30 days of when they have come.

Now, I don't know whether he is the hatchet man that has taken over where a peaceful, nonactive, nonbelligerent Administrator whom we all love had—where he had to come in and take over the hatchet. I don't know that. I am not even attempting to surmise it,

but I don't want this thing to get into the polarization of this committee and become a political issue to be used as saying we condemn the President for not firing him tomorrow.

Senator WEICKER. I happen to be one of those who believes in politics there is always an advantage to being positive; that is, there should be in this case a Small Business Administrator. I believe you will find if you insist on appointing a Small Business Administrator through the constitutional process, that de facto your other objectives will be achieved. I don't think the nominee is going to be Mr. Heatherly.

So, by insisting on the one, you may be taking care of your other problem. And you would be doing it in a positive way which I think is good.

Mr. MUDGE. Mike Lefkiades, please.

Mr. LEFKIADES. Senator Weicker, gentlemen, it is very obvious right now there is an old phrase "res ipsa loquitur," "the thing speaks for itself." Here, the administration knows that they cannot kill the Small Business Administration, so they are trying to do it de facto. If I can read in a little crystal ball, in essence, that is what it comes down to.

So, the question is, what do we do about it, and you addressed the problem precisely, Senator Weicker. But there is something we can do about it. Fortunately, by some fortunate coincidence, the White House Conference on Small Business has been convened at the invitation of the White House. We are going to have the floor there. They are inviting us to tell them what we think.

I think a case can be made, a very strong, persuasive case, to preserve the Small Business Administration in its present mandated form. Mr. Heatherly is a symptom. He is the messenger. He is the person who has been sent to do what the administration wants him to do. Correctly, you said, this is not the real problem. The real problem is at the core.

I would propose that all of us ask our delegates to the White House Conference to lobby, work, cajole, influence, and talk to everybody to see that every single delegation, every single State delegation to the White House Conference on Small Business send a very, very strong message and to urge a resolution to preserve the Small Business Administration in its present form and the way it has been mandated by Congress.

Mr. MUDGE. Thank you.

I think in the interests of the agenda, we have heard expressions quite thoroughly now about both resolutions. Would someone please make a motion that we proceed to vote on them?

Mr. LEFKIADES. I make a motion.

Mr. MUDGE. We are going to vote on two different resolutions.

Mr. LEFKIADES. That is correct. I will second Mr. Nourse's motion.

Mr. MUDGE. All those in favor of Bill Nourse's resolution please signify by raising their right hands?

Mr. FUENTES. Excuse me, is that the one to fire the Acting Administrator?

Mr. MUDGE. Yes. That is the one that mentions him by name. Do you have Tim Fine's in front of you? You will be making a choice between one or the other. We all understand the point? All right.

All those in favor of Bill Nourse's resolution please raise your right hand.

[Show of hands.]

Mr. MUDGE. Nine. Those in favor of Tim Fine's resolution please raise their hands.

[Show of hands.]

Mr. MUDGE. Tim Fine's resolution carries. Thank you very much.

May we move on then to the next item on the agenda.

Ms. KRUGLICK. Mr. Chairman, can I ask Senator Weicker one question please, that pertains somewhat to this?

Mr. MUDGE. Yes.

Ms. KRUGLICK. Senator Weicker, could you tell me what would happen with the Senate Committee on Small Business if the SBA is transferred over into Commerce or is done away with? Would it change the structure or even the committee's existence?

Senator WEICKER. I think probably under those circumstances, I would be the first one to advise the abolition of the committee and possibly expanding the size of the Commerce Committee. I am just speaking off the top of my head, but at that juncture, SBA becomes an element of Commerce and it would appropriately, it seems to me, be under the jurisdiction of the Senate Commerce Committee.

Ms. KRUGLICK. Don't you fear it would get lost, then? The same thing would happen.

Senator WEICKER. That is the very reason I am not for that happening in the executive branch. Yes, I think I am against that because small business would be lost over there. But, I am not in this to support an empire here in the U.S. Senate. I would see no purpose at all in a separate committee should the Small Business Administration become part of the Commerce Department, and I think clearly I would advocate the abolition of the Senate Small Business Committee.

With all the other responsibilities that we have in the U.S. Senate, it is very difficult to get everybody to as many meetings as we could hold in order to effectively meet our legislative and oversight responsibilities. If you go ahead and just fold that into the Commerce Department, I can tell you that you will have no attendance at all.

So, I think I am being honest in response to your question. And I want to say this right now, because I feel very strongly on this point. I don't care about the fact that I am going to lose staff positions or a chairmanship. That doesn't bother me at all, not at all. I never asked for this job.

Most of you have heard the story that I have told, but when I first came to the U.S. Senate, this committee was a seven member committee, four Democrats and three Republicans. Jack Javits was the ranking Republican. He came to me one day and said I can't get a third Republican, would you mind just filling in? I said OK, as long as I don't have to do anything, I will fill in, at which point I became one of three.

Well, one day a few years later, Jack came to me and said look, I have a chance to be the chairman of the Joint Economic Committee. Would you mind taking over the ranking member's job? I said sure, still no work involved in this thing, we are not the majority, and they only call a few meetings a year.

Well, lo and behold, the next thing that happened was that we all woke up one morning around here and the Republicans had gotten control of the U.S. Senate, and I was the chairman of the Small Business Committee. It is not anything that I sought or necessarily wanted, because I sit on Appropriations, Energy, and Labor and Human Resources Committees. I didn't really feel that this was something that I could afford the time for.

The rest is history. Because of the cries of the small business community, small business became one of the top political items around this U.S. Senate and around the country, and the committee became a 19 member committee with full standing status, as we have already discussed. But all of that was in furtherance of this segment of our economy, small business, which I think we have all come to realize was the jewel in the crown.

If you are going to take that and bury it over in Commerce, believe me, you don't need a separate Senate committee, and I am not going to keep this committee in being so I can supply some jobs for staffers and a chairmanship for myself.

Mr. TINDOL. Along that line, may I make one quick question? It has been proposed and talked about the idea that if it goes to Commerce, we might seek a compromise of a Cabinet position on small business. How do you feel about that?

Senator WEICKER. I don't think that would happen because you have the Commerce Secretary who is already a Cabinet member.

Mr. TINDOL. You don't think there is any chance?

Senator WEICKER. No, I don't think so. And I have to say to you, because I have seen this matter of what happens in a folding-in proposition. I am in a battle right now where I am trying to extricate NOAA, the National Oceanic and Atmospheric Administration, out of Commerce and set it up as a separate agency because it is buried in Commerce and it doesn't have the ability to do what it should be doing.

So, the answer is I don't care what people say, there won't be any separate Cabinet status for a Small Business Administrator if it goes over to Commerce.

Mr. MUDGE. We must move on to the agenda.

Senator WEICKER. I might add if any of the Senators wish to add to or might disagree with what I have just observed, please say so.

Senator GORTON. As you know, Senator Weicker, I would have interrupted had I disagreed. [Laughter.]

I think you are entirely right both in your justification for what we are doing and in your answer to this last question, absolutely 100 percent correct.

Mr. MUDGE. Shall we move on? I will ask Fred Mohs to raise the question of RICO, please.

Mr. MOHS. This is a subject of civil RICO. It is a new item to be considered by our group and, frankly, quite a new item to be considered by small business, but it has become a problem and a problem that has become equally as pervasive as our interest in tax reform, interest in all of the other more traditional small business interests.

In 1970, the Racketeer Influenced and Corrupt Organizations Act was passed. For many years, it more or less laid dormant or was used for the legitimate purpose of attacking organized crime.

About 5 years ago, it began to be used between legitimate business people in their everyday contract fraud, commercial business transactions. It is ill-suited for the purpose and is creating great damage.

Each of the big eight accounting firms, Arthur Anderson, Touche Ross, Price Waterhouse, are defendants charged with racketeering under civil RICO. Law firms, securities firms, people involved in real estate, almost any phase of business is subject to this explosion of civil RICO.

It does away with or supplants a very well established jurisprudence where elements of fraud need to be proved, intent, reliance, et cetera, and replaces them with a very broad, intentionally broad, and intentionally undefined net in order to catch the wiliest of mob racketeers, and it is effective for that.

The American Bar Association has done an exhaustive study. It has found out that only 9 percent of the defendants in civil RICO cases are actually involved in what we think of as criminal activities. The rest are legitimate business people.

There are some aspects to RICO that are intended to be terrifying to organized crime. One aspect is the lack of contribution. There can be 100 RICO defendants, and they can sue 1 for all the damages with no right of contribution, all the things that are normal and typical under civil law.

For small businesses which are not themselves the subjects of RICO litigation, this is still a cost. People who are raising money through equity markets, everyone who employs an auditor, a law firm, is beginning to pay quite a price because this is involving almost the necessity to write a prospectus to lay out every possible risk or relationship that could be thought about, known and unknown. Silence on any of these items puts the thing squarely into RICO.

So, there is a tremendous cost. It must be said that this can be an effective tool to fight organized crime, but it is like shooting at a fleeing suspect into a crowd with a shotgun. You might hit the criminal, but you have nine innocent people splattered in the meantime.

There are three bills in Congress, two in the House and Senator Hatch has one in the Senate. They have broad support in business and in the professions, and we urge the support of those bills in order to eliminate what has become a great and growing small business problem.

Mr. MUDGE. Does anyone else want to address the question?

Senator WEICKER. Let's ask Slade Gorton, because Slade is our ex-State's attorney here. Slade, do you know of these bills that are mentioned in the resolution?

Senator GORTON. No, I don't have any particular competence in this area. You are right that I am an ex-attorney general, but my office had no criminal jurisdiction and I am not on the Judiciary Committee.

However, I do know of the concerns which are being expressed. Small businessmen and big businessmen alike are concerned that a law which has been immensely effective in connection with organized crime and is the basis of many of successful prosecutions in New York and across the country has also been used in a civil fash-

ion in ways that clearly were not anticipated by the people who wrote the law in the first place.

In reading the resolution, my only concern is that if you took all of the recommendations in the resolution, you might be gutting the legitimate use of the act. But, it is appropriate that the small business community be concerned about harassing lawsuits which really do not allege anything which is criminal in nature. Yes, that is a very big concern.

Mr. MOHS. I might say, Senator, that in this resolution, the five elements of the resolution are taken from Senator Hatch's bill. I do not claim to be an expert in this myself. This is what has been worked out by Senator Hatch.

It goes without saying that, first of all, we are the enemy of organized crime. We have nothing to do with it. It is a big business, right? If they are going to belong to anything, they are going to have to belong to the U.S. Chamber of Commerce and the Business Roundtable. [Laughter.]

So, nothing involved here would be intended to gut the ability of prosecutors or people bringing civil actions to deal with organized crime. However, I don't believe this can be dealt with, probably, without doing some damage to the ability to combat organized crime, but it would be in the same vein as anyone writing a check is presumed guilty of racketeering. I mean, that might be a great way to catch racketeers, but it is going to catch an awful lot of innocent people at the same time.

That is, in some respects, what has happened here.

Senator GORTON. For example—and I don't know all of the details of Senator Hatch's bill either—but to place a "beyond a reasonable doubt" burden of proof in a civil case is, as far as I know, unprecedented.

Mr. MOHS. Yes.

Senator GORTON. I have serious questions about that. Some of the other aspects of it are pretty good. As I said, Mr. Chairman, again, as you have pointed out, this meeting is for these business people to give advice to us, and it is valuable exactly to the extent that they are giving advice to us without having been overly influenced by us. But you asked for comments on it. I think it is a very real problem and should be seriously addressed. I have some reservations about some of the details of Senator Hatch's bill, as I said.

Senator WEICKER. I am not here, as I said, to advise on the resolutions. No. 1, this is the first I have heard of this problem. You might want to consider passing a resolution in this area but leaving it flexible. Something that clearly indicates your concerns, I think, is entirely appropriate and let the committee examine the various bills.

I will tell you, I think this is great. This is the first I have heard of this, and it is something that I will pursue further.

I want to tell you, that is the great advantage of this council. You talk about something that isn't just window dressing, I really mean it when I say we have taken the Small Business Committee over the past several years and tried to involve ourselves in the matters that you say we ought to get involved in and not just hairbrained schemes that I and other Senators think we want to do.

Mr. MUDGE. Tim Fine.

Mr. FINE. I think the real question, and I don't like the particular approach of the Bar Association of which I am a member or the resolution, is really the question of whether or not RICO should strictly be a criminal statute for use of prosecutors only and eliminate the civil side altogether. I think that is the real issue.

Once you start putting all these restrictions on civil suits, it means you have to have a prior conviction, you have to have a greater burden of proof than the predominance of the evidence, you can't use certain types of acts. I think it really gets down to the question of whether or not RICO should be strictly a criminal statute for use of prosecutors to go after organized crime rather than creating a nightmare situation for civil litigation. I think that is the real issue and not trying to create a very finely divined path for civil plaintiffs to bring. That is going to be, I think, an impossible situation.

Mr. MUDGE. Because of time restrictions, we are going to ask Fred just to read the resolution and vote on it, because we do have six more items on the agenda and less than an hour to deal with them.

Mr. MOHS. All right. I will read this resolution. I hear what both Senators have said and also what Tim has said here about the technical nature of this. It is hard to come to grips with this. I am going to ask that this resolution be adopted just because it is hard to get around this, but I hear what you are saying. What Senator Weicker has said and what Tim has said hopefully will carry through as the real message, but this needs to be dealt with, and it is technical.

[Proposed resolution follows:]

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON CORRECTING ABUSES IN RICO

Whereas, the Congress in 1970 passed the Racketeer Influenced and Corrupt Organizations Act (RICO), Public Law 91-452, Title IX, in order to expand the panoply of federal law enforcement remedies against organized crime;

Whereas, since that time, private civil actions brought under RICO have increasingly targeted legitimate business activities with no connection to organized criminal activity;

Whereas, small businesses bear an onerous burden in defending their legitimate activities against claims brought under RICO;

Whereas, a number of deficiencies in the language of RICO permit the unintended misuse of RICO to initiate litigation against legitimate businesses;

Therefore, the National Advisory Council does hereby resolve:

1. That legislation introduced and pending before Congress to correct some of the numerous shortcomings in RICO should be adopted by the Congress, to wit, H.R. 2517, introduced by Mr. Conyers, S. 1521, introduced by Mr. Hatch, and H.R. 2943, introduced by Mr. Boucher; and

2. That a showing of a prior conviction of a racketeering activity as defined in RICO should be a predicate to any civil suit brought under RICO; and

3. That the provision allowing for treble damages and attorney fees should be eliminated from RICO except where a prior conviction of a racketeering activity is alleged and proved; and

4. The plaintiff shall carry a burden of proof of showing beyond a reasonable doubt that the defendant engaged in a pattern of racketeering activity; and

5. That the plaintiff must show that at least one of the alleged acts of racketeering be other than wire, mail or securities fraud.

Mr. MOHS. I move adoption of the resolution.

Mr. MUDGE. Do you want to call for the vote?

Mr. MOHS. Yes, please.

Mr. MUDGE. All those in favor of the resolution as read please signify by raising their right hand.

[Show of hands.]

Mr. MUDGE. Those opposed?

[Show of hands.]

Mr. MUDGE. Thank you very much. The resolution is passed.

We will move on then, please, to the matter of antitrust enforcement, and Timothy Fine will lead the discussion.

Mr. FINE. Thank you, Mr. Chairman.

Senator Weicker and members of this distinguished committee and members of the Advisory Council, one of the saddest aspects of small business in the last few years has been what we view as a trend toward a different type of society than what we have envisioned. This country is one of the few countries that has an enormous small business base with hundreds of thousands of small business people competing and able to survive in a capitalistic country that is the largest in terms of output in the world. No other country in the Western democracies has such a vibrant society in terms of small business.

Unfortunately, certain individuals such as the Secretary of Commerce, Malcolm Baldridge, and members of the Justice Department feel that the only way that we can do something about competing on the world and international level is to go the way of cartelization and monopoly, believing that there are cost efficiencies in large organic groups such as trading companies and the like. In terms of that, they have virtually forgotten and have not enforced our antitrust laws.

During the last 5 years, we have had mergers that have been the largest in history. Who could imagine that 10 years ago, our Justice Department would approve a merger of Gulf Oil and So-Cal? Who would believe that Texaco and Getty could get together? Who could believe that Reynolds Tobacco and Nabisco could merge? Who would even fathom the thought that Connecticut General Corp. and INA could get together? Who would even believe that the Southern Pacific Co., the largest railroad organization in the West, could merge with the Santa Fe, the second largest in the West?

This is just beyond the belief of anyone who had any idea of what antitrust was about since a Republican administration and Republican President signed the Sherman Act in 1892.

What is even more tragic is many distinguished members of this committee and the Congress have learned is that in February of this year, the failure of enforcing the antitrust laws are now going to be tried to be made permanent through five legislative proposals. On February 19, this administration introduced five separate legislative proposals to amend antitrust laws so in effect to permit such mergers, to permit small business people to be told at what prices to sell, what products they can and cannot handle, and other forms of anticompetitive activity.

As Members of this Congress have said, they are trying to make in permanent form what the theoreticians and the Chicago School of Economics have been arguing over in the Justice Department for the last 5 years.

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So, without going into all the whereas clauses of this resolution, I would just like to read, for the sake of time, the resolved clauses, as follows:

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business resolves as follows:

First, that the Congress reject the proposed Administration's antitrust law legislative package as being inimical to the free enterprise system, a direct threat to the ability of small business to compete fairly in the marketplace, and a device to undercut both private and public enforcement of the antitrust laws;

Second, that the Federal Trade Commission and the Antitrust Division of the Department of Justice are urged to vigorously enforce the antitrust laws of the United States in the following areas where enforcement is now sorely lacking:

A. Anti-competitive mergers and acquisitions;

B. Resale price maintenance;

C. Tying arrangements; and

D. Unreasonable territorial and customer restrictions; and

Third, that Members of Congress are to be commended for their support of the legislation expressing the sense of Congress contained in H.R. 2965 that the Justice Department's Vertical Restraints Guidelines do not have the force of law, do not accurately state current antitrust law, should not be considered by the courts as binding or persuasive, and should be recalled by the Attorney General.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON THE ANTITRUST LAWS

Whereas, the antitrust laws of the United States have been the strong underpinning of the American free enterprise system through insuring a free and open marketplace; and

Whereas, the antitrust laws of the United States are the first line of defense against anticompetitive activity, are critical to the health of the economy and are vital to the survival of small businesses in America; and

Whereas, the antitrust laws of the United States have insured the integrity and independence of the American small businessperson in being able to decide which products to handle, where and to whom to sell such products and the prices at which such products are sold; and

Whereas, since 1981, the present Administration has consistently cut back on antitrust enforcement and reinterpreted the law whenever possible to reduce its effectiveness, resulting in the most permissive antitrust climate in this century; and

Whereas, on February 19, 1986, the Administration announced five legislative proposals to amend the antitrust laws of the United States which would encourage monopolies, mergers, acquisitions, vertical price fixing and other forms of anti-competitive behavior plus reduce the incentive of injured private citizens and companies to bring civil suit against the perpetrators of antitrust violations for injuries suffered;

Now, therefore, be it resolved that, the National Advisory Council to the Senate Committee on Small Business resolves as follows:

First, that the Congress reject the proposed administration's antitrust law legislative package as being inimical to the free enterprise system, a direct threat to the ability of small business to compete fairly in the marketplace and a device to undercut both private and public enforcement of the antitrust laws;

Second, that the Federal Trade Commission and the Antitrust Division of the Department of Justice are urged to vigorously enforce the antitrust laws of the United States in the following areas where enforcement is now sorely lacking:

A. Anticompetitive mergers and acquisitions;

B. Resale price maintenance;

C. Tying arrangements; and

D. Unreasonable territorial and customer restrictions; and

Third, that Members of Congress are to be commended for their support of the legislation expressing the sense of Congress (H.R. 2965) that the Justice Department's Vertical Restraints Guidelines do not have the force of law, do not accurately state current antitrust law, should not be considered by the courts as binding or persuasive, and should be recalled by the Attorney General.

Mr. FINE. Mr. Mudge, I respectfully move the adoption of this resolution of the National Advisory Council on the antitrust laws.

Mr. MUDGE. Thank you very much, Mr. Fine.

Is there further discussion on this?

[No response.]

Mr. MUDGE. If not, we will have a vote. All those in favor kindly signify by raising their right hand.

[Show of hands.]

Mr. MUDGE. Opposed?

[Show of hands.]

Mr. MUDGE. The resolution is adopted. Thank you very much, Mr. Fine, for your research, your thought, and your resolution.

We will move on then, please, to the matter of export licensing and call on Mr. John Duncan from Bozeman, MT.

Mr. DUNCAN. Thank you, Mr. Chairman.

My resolution is dealing with a problem which I have battled with in almost 15 years of starting new companies and trying to deal in the world markets. I think this is probably magnified because of the fact that I do work in a technology that is not well understood.

At the present time, I find that in order to ship my products out of this country, because of my size, I am required to get an export license for every order that I receive. The processing of these export licenses takes between 4 and 12 weeks, on the average, and this makes me noncompetitive. My customers can't deal with that type of a timeframe.

To get a distributor's license, you have to prove how large you are, you have to be able to prove how much material you will ship into a country, and it is very difficult to get this type of a license. It has taken me 2 years to get the two or three that I have right now.

In addition, I have found besides the delays in the Department of Commerce, there is a contradiction and that is that the Department of Commerce is taxed with the job of classifying my goods, and the Department of Treasury Customs group is taxed with trying to regulate these things, and they do not always agree. I find often that the Customs people will disagree with a Commerce classification, confiscate my goods, and then we go through a long process of trying to get the goods out, and I have lost many orders.

I would like to urge the formation of a single authority to deal with exports, and then I would like to see that authority given the mission to encourage and promote the export of products from the United States and bring the tremendous energy and innovation of small business to bear on the problem of our trade balance. That is the purpose of this particular resolution that I have.

Would you like me to read this resolution, Mr. Chairman?

Mr. MUDGE. Before you read the resolution, we will call on one or two other manufacturers, John, if that is OK with you.

Mr. DUNCAN. All right.

Senator WEICKER. If I could just 1 minute—only because I have to be in another conference in about 5 minutes—announce one possible change that I hope you all find agreeable, not on the resolutions but on your luncheon engagement. Senator Domenici is on the floor right now, as you know, managing the budget resolution. So, it would probably be that he could not address the group at lunch.

What I have done here is two things. No. 1, I have asked Senator Bumpers, as the ranking member, if he would spend a few minutes with you which he intends to do at lunch and give the Democratic perspective. Then, I have just been on the phone with Senator Danforth, feeling that you would all like to have somebody to fire away on the subject of liability insurance. As you know, that is handled by his committee, and he is the front runner on that issue. So, I thought you would enjoy having him as your speaker so that you can go back and forth on that issue with him at lunchtime.

So, Senator Bumpers and Senator Danforth will be your speakers at lunch specifically with the idea in mind that you will be able to get into the liability insurance issue with Senator Danforth.

Mr. MUDGE. Thank you very much, Senator.

Herb Bowden.

Mr. BOWDEN. I would like to speak to the resolution just briefly. I might say that we probably don't have quite the complication that the speaker here did because we do have a finished product and once we get a classification, that is repeated. But during the initial stages, we experience exactly the same difficulty.

That, coupled with the problems that we have had with the differences in value, especially with respect to the yen, has caused us to slow down over the past few years. And, of course, the last part is the impediments that we have had with particularly the Japanese. All of those combine to sort of have gotten us to the point where we get disillusioned, and obviously we need more exports.

So, it is kind of a multifaceted problem, and it is to the point where we who were exporting more—our exports have actually declined in the last year and a half—are saying to ourselves well, do we want to wind up and go at this again or is something else going to hit us over the head?

So, we are down to exporting to about three countries for this reason, and we have a lot of products that are patented and we need to hold up internationally. So, I just wanted to speak to that positively.

Mr. MUDGE. The question is really the self-imposed impediments our own bureaucracy has created to further inhibit trade. It has nothing to do with the yen, really. It is a matter of our own American policies and procedures.

Mr. BOWDEN. Right, that is what I am adding. It is one more impediment that we have to overcome to make the exports work.

Mr. MUDGE. Does anybody else have a comment? Odus.

Mr. HENNESSEE. The only comment I have to make is based on that I feel directly that one of the major problems we have, and we are faced with the same kind of situation because we export to every continent in the world except Australia, and we have seen our exporting capability go down, and I can only directly relate that to what our customers have said—we simply cannot afford your goods.

I am in the cosmetics manufacturing business, and we, unlike some of the other industries, still represent, I think, the best technology in the world. That is the reason they want our products. If they can't afford them, then obviously we can't export them.

What I would really like to see is a unified economic policy that would keep the United States competitive, in other words, keep the

dollar at a steady level so that we don't get these massive up and down relationships to the other currencies around the world which is a major problem. It is very difficult in my business.

My basic concern is that we have to now go back and rebuild our ability to be able to deal with those people, and I am not willing and I think a lot of other business people are not willing to make that investment, that initial investment from a training standpoint, a personnel standpoint, from a simply dollars standpoint to be able to accomplish that unless I know that there is going to be a unified, long-term policy that will allow us to be able to do that for an extended period of time.

If we can't have that, then I would believe that our exports are going to stay exactly where they are, because you can't deal with that kind of investment not knowing that you are going to be able to make a profit.

Mr. MUDGE. The subject is export licensing. John, would you read the resolution, please?

Mr. DUNCAN. Yes, sir; Mr. Chairman.

Whereas the balance of trade between the United States and overseas markets has had severe impacts upon the United States economy and manufacturing capability; and

Whereas it is recognized that the promotion of goods manufactured in the United States to international markets fosters economic growth and ameliorates the impact of foreign imports; and

Whereas export sales is dependent upon licensing and review by the Department of Commerce and commonly results in lengthy delays in the supply of exported goods; and

Whereas officials of the U.S. Customs Service do not always agree with the Department of Commerce classification of products which can lead to confiscation and further delays; and

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business:

Urges the Committee on Small Business to hold hearings to study ways to minimize the licensing time and requirements necessary to export goods from the United States; and

Urges further that the Committee on Small Business support the formation of an International Trade Department dedicated to promoting, encouraging, and expediting the export of U.S. products.

Mr. MUDGE. It was suggested earlier that the words "and services" be included.

Mr. DUNCAN. They have it in the last paragraph.

Ms. ABLAN. The second paragraph and, I believe, the third paragraph.

Mr. MUDGE. We put "services" in the second paragraph?

Ms. ABLAN. Yes.

Mr. DUNCAN. I think we have it in all of them.

Mr. MUDGE. And at the end didn't you want to say "products and services"?

Mr. DUNCAN. OK. I assumed products included both, so it doesn't make any difference.

Mr. MUDGE. You did want to have "and services" didn't you, Thelma?

Ms. ABLAN. Yes.

Mr. MUDGE. The straw vote indicated that.

[The proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON EXPORT LICENSING AND CONTROL

Whereas, the balance of trade between the U.S. and overseas markets has had severe impacts upon the United States economy and manufacturing capability; and

Whereas, it is recognized that the promotion of manufactured goods and services in the United States to international markets fosters economic growth and ameliorates the impact of foreign imports; and

Whereas, export sales are dependent upon licensing and review by the Department of Commerce and commonly results in lengthy delays in the supply of exported goods and services; and

Whereas, officials of the U.S. Customs Service do not always agree with the Department of Commerce classification of products which can lead to confiscation and further delays; and

Now, therefore, be it resolved that, the National Advisory Council to the Senate Committee on Small Business:

Urges the Committee on Small Business to hold hearings to study ways to minimize the licensing time and requirements necessary to export goods and services from the United States; and

Urges further that the Committee on Small Business support the formation of an International Trade Department dedicated to promoting, encouraging, and expediting the export of U.S. products and services.

Mr. MUDGE. If there isn't any further comment, could we have a vote on this resolution? All those in favor please signify by raising their right hand.

[Show of hands.]

Mr. MUDGE. Those opposed?

[Show of hands.]

Mr. MUDGE. Thank you. The resolution is passed. Thank you very much for bringing this important thought to the Council.

We would like to call now on Judy, please, to discuss the matter of tax reform.

Ms. MCCOY. In the area of tax reform, you have two different proposals in front of you. I am going to be referring to the one which ends with the word "retroactive" if you want to take a look at that particular one.

The basis of this and where it stems from are two major concerns that I have heard from small businesses concerning taxes, and that is last year as we met, one of our overriding concerns was for stability in our Tax Code, that while we may have certain areas that each of us would like to see changed and there are particular aspects of it which we may not consider good, the overwhelming concern is that we develop some stability, that we know from year to year what our Tax Code is going to say, that we can plan on that, and that our accountants can deal with it.

Right now, it has gotten so complex and the changes have occurred so quickly that even those within the accounting field now have to have specialists in the tax area, and it has become a very limited profession. We pay very dearly for that as small business people.

It is important for us to have some stability in our planning, and a key factor to it is that we do not have retroactive taxes. This is one area that when we sell our goods, we must set a price for it, and we cannot go back 6 months later and tell our customer that things have changed and we now must change that price.

Likewise, when we start the year and go into it, we have to have an idea of what we are paying for in how we arrange our business. If we want to go ahead and do our deals and proceed, we have to

have an idea of just what kind of cost we are accumulating and what our tax bill will be for that particular endeavor.

That is why this particular resolution tries to center on those two key areas, and that is that we need stability and, second, that we cannot have any changes be retroactive.

Mr. MUDGE. I would like to call on Larry Stanley to comment, please. Thank you, Judy.

Mr. STANLEY. I would like to reinforce some of Judy's comments here. The example I would like to use is last year's fiasco on contemporaneous recordkeeping for automobiles.

As has been acknowledged by several of the Senators and Representatives in recent times, that particular issue brought on a deluge of mail that was pretty well unparalleled in previous times. The reason for that deluge of mail was because there were many of us out there that had already made our commitments on vehicles either for ourselves or, more importantly, for employees in our organization.

I know that the zigzagging that had to go on in my own organization with my sales people because of the differences of regulations that came forward and then were turned around later and then were turned around again during the year 1985 made for very difficult management. I think that the real basis of the problem here is that regardless of what the intent of Congress is, we have another organization back here in Washington that will make their own rules and regulations, better known as the IRS.

Until such time as Congress either recognizes that when they come forward with certain bills that they have to make sure that it is written with the type of language that IRS can not come along and undo it, particularly in the area of retroactive taxes. So, I fully reinforce what Judy is suggesting here.

Mr. MUDGE. Fred Mohs.

Mr. MOHS. I think one thing we must continue to stress and reinforce when people are trying to understand small business is that our businesses do not have the same accounting or the same financial basis that many big businesses have. These are, in many cases, individual situations. A person not only runs the restaurant, but he owns the restaurant building. There are interrelationships between family members. Personal credit is involved. In many cases, the financing of a small business is highly leveraged.

Changes involving, say, the deductibility of interest for commitments that are made by small businesses are not easily changed. They may go over a period of 7 years on an equipment loan or an equipment leasing situation.

All these things are a matter of real worry and concern for small business when you contemplate a tax change in the middle of something from which the small business person cannot extricate himself. The risk of tax change becomes one of the primary risks of business.

This is a very unproductive condition, and we must continue to emphasize the difference between how a small business is capitalized, the highly leveraged nature of small businesses, and how we are treated when we talk to people. In many cases, a small business has much more relationship to how a person is taxed than

what many people who are trying to understand us perceive in the way of big businesses are taxed.

Thank you.

Mr. MUDGE. Are there other comments? John Duncan.

Mr. DUNCAN. I have one comment. There are some insidious retroactive things that can occur even though they don't appear on the surface when you begin to talk about tax reform. I would like to bring one to your attention, and that is the capital gains deduction which, in most cases, is being eliminated in the reform bills.

I built a company many years ago which grew to a fairly large size. It was acquired by a corporation which I took stock in for the company. That stock I used to finance the present corporation that I am building.

The bank looks at that stock on a net basis. My credit is only extended or only has the capability of what that stock would be worth after it is sold and capital gains taxes are paid.

So, if you eliminate the capital gains deduction, my ability to finance my company immediately goes down. Even though it appears to have no retroactive effect, it does. It gives me less capability to finance existing operations.

Mr. MUDGE. Are there other comments?

[No response.]

Mr. MUDGE. Would someone like to move the question, please?

Mr. SIMPSON. Are we discussing tax reform?

Mr. MUDGE. Yes, we are discussing tax reform. Did you want to comment, Jim?

Mr. SIMPSON. I had this one that I had written. Did you want to talk about that now?

Mr. MUDGE. Has it been distributed? Do we have copies for each member?

Mr. SIMPSON. Yes.

Mr. MUDGE. All right. We have two.

Mr. SIMPSON. This is the one with seven whereas clauses.

I didn't detract from Judy's at all, but when we got ready to come up here, I looked at the agenda and figured with what we were going to be discussing that everyone knows no one likes to have their taxes raised and that we would be merely affirming that which the committee had already decided that indeed we don't like an increase in taxes, no way, no how.

Since I have arrived here, I have heard of the frustration of the last few years to try to get something done, something accomplished, in the same area with very poor results, practically nil. So, actually, what I have done is just tried to strengthen a little bit the bill with certainly no insult intended, and I am certain there won't be any insult taken, but it does pose some questions that I feel very strongly should be raised.

We haven't talked anything other than tax increase here. Or we have talked only tax increase; we haven't talked about belt tightening, looking back at some of the entitlement programs, following more the recommendations of the Grace Commission. These are the only things I have put in.

I also wanted to put in the effect that this confiscatory taxing has on business in addition to not being able to keep up with it, not knowing what is going to come next, and being retroactive. Those

are all very real. But the immediate impact is one of saddling us with more expenses. Our costs go up. Our ability to hire and to give raises, to develop new products, these are all affected by any hostile tax increase to business.

I merely wanted to make a strong statement and I will read it now in its entirety. I hope you all have it. Then you can discuss it, and I will go with the majority. But I have found that if you go to the well several times and you are not able to get anything, it might be time to throw a few rocks down there and raise the level and maybe you can reach it.

Whereas small business is a critical segment of our economy producing more than its proportionate share of net new jobs relative to the small business share of total employment;

Whereas Congress is unwilling to bring spending under control—I think that can't be argued—and is currently considering comprehensive reform of the income tax code with the deleterious impact on small business;

Whereas in the past 5 years, Congress has enacted three major tax revision bills—actually, there have been five—each hostile to small business;

Whereas the small business community desires stability in the Tax Code in order to be able to make long-term economic decisions;

Whereas small business does not have the financial resources to continually adjust its long-term commitments to frequently changing tax laws;

Whereas small business does not always have the ability to pass along taxes to the consumer—many of us are just so obvious to our customers that we just can't raise the prices to reflect increases in cost—investment and growth will be profoundly affected and inhibited;

Whereas the Grace recommendations are still awaiting congressional reaction;

The President has done everything that he could on his side of the Grace Commission to pull the country together and to save money. There has been very little done in the Senate or the Congress on this area. I would see a lot more emphasis placed on trying to become more efficient and get rid of some of these pork barrel efforts that are going on and some of the grease that is going on within the people that are dealing back and forth for deals within the States and districts.

This merely brings that to their attention that we aren't satisfied with everything that has been done to save money before going into a hurtful increase in taxes, because we know darn well it is going to affect the economy and not only ourselves. We have more here than what we are talking about.

Then, I have the same "resolved" as what Judy had commented on.

Mr. MUDGE. Before we proceed on a vote for either of these two, could I ask you please, Jim, if we could make some grammatical changes—knock out the quotation marks on "pass along" and the word taxes is misspelled here.

Mr. SIMPSON. Yes.

Mr. MUDGE. And I think perhaps after "pursuant" there should be a semicolon. And perhaps the last one should be "A-F-F," if that is agreeable to you.

Mr. SIMPSON. OK.

Mr. MUDGE. Would someone like to move either of the two?

Ms. ABLAN. I would like to call the question on Judy's proposal.

Mr. MUDGE. Now, we are going to vote on two, so the first will be Judy's. All those in favor of Judy's proposal please raise their right hand.

[Show of hands.]

Mr. MUDGE. Thank you. All those in favor of Jim's resolution please raise their right hand.

[Show of hands.]

Mr. MUDGE. Judy's resolution is passed.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON TAX REFORM

Whereas, small business is a critical segment of our economy, producing more than its proportionate share of net new jobs relative to the small business share of total employment;

Whereas, Congress is currently considering comprehensive reform of the income tax code;

Whereas, in the past five years, Congress has enacted three major tax revision bills;

Whereas, the small business community desires stability in the tax code in order to be able to make long-term economic decisions;

Whereas, small business does not have the financial resources to continually adjust its long-term commitments to frequently changing tax laws, nor can they financially deal with retroactive tax changes;

Therefore, be it resolved that, the National Advisory Council to the United States Senate Committee on Small Business does not feel that fundamental change in the tax code is warranted. Should Congress decide to enact tax reform, any such revision of the tax code must recognize pre-existing business commitments and that no tax law change should be retroactive.

Mr. MUDGE. Thank you very much, both of you, for the research and the thoughts that you have brought to this issue. It is an important one.

Mr. SIMPSON. We will have to approach it next year again.

Mr. MUDGE. Well, you can approach it at the White House Conference. There are regional meetings. There are nine regional meetings in June. The White House Conference, as you know, is August 15.

Let's see. We will call on Asta Ball, please, to lead a discussion on the foreign language requirements.

Ms. BALL. I had stated previously that in order for America to function much more efficiently, especially in regards to trade and also pertaining to our foreign embassies, to give us a much more broad and global outlook in today's shrinking world, foreign languages are really severely needed.

We invest a lot of money in defense spending. We neglect sometimes our human resources or our human values.

As we all know, President Reagan is on his way to a very, very important economic summit meeting in Tokyo which they, coincidentally, on the Hill call Wings of Freedom. We should perhaps give support to the resolution on languages. As I said also, as we reach for the stars, we have to keep our feet on the ground still. We are not in the year 2001. We have an illiteracy rate in this country.

The English language, incidentally, no longer is the language which dominates the world. It is not. I feel language laboratories, et cetera, are, of course, very vital, but I still think the human contact is of great importance, especially the teachers who will teach children. They are available in this country.

I am not advocating that any one language be taken up into consideration. I side strictly with the good doctor over there who said

that perhaps Russian, Japanese, et cetera, and we can expand those horizons.

With your permission, I would like to read a resolution:

Whereas small business is a critical segment of our national economy;

Whereas in 1983, imports and exports made up nearly one-fourth of the gross national product of the United States;

Whereas it is impossible to participate in fruitful trade negotiations without knowledge of the other side's language;

Whereas for the American business sector to become more successful globally, more attention must be directed toward a complete understanding of foreign languages and cultures;

Whereas the United States is the only industrialized country in the world where a person can graduate from high school and college without having studied any foreign language;

Whereas so little attention has been paid to the subject of business translation that the Library of Congress has not one single title in the field;

Therefore, be it resolved that the Senate pass S. 1631, a bill directing the Secretary of Education to make grants to State educational agencies for the improvement of foreign language study for children from age 5 to 17.

S. 1631 was introduced in September of last year by Senator Simon.

Thank you.

Mr. MUDGE. Thank you very much, Asta.

Are there comments, please?

Ms. ABLAN. I would just like to second Asta's resolution. I think it is critical that we decide to do something about this. Export is one of the avenues that we in business, and in small business in particular, can really advance and help the economy grow.

Mr. MUDGE. From my own personal experience, I will have 3 months in Asia this year. I have been trying to pick up a few words in Korean and a few words in Chinese. I just came back from Brazil. I am continuing my studies in Portuguese. I am half-way fluent in French, although I don't use that as much as I did.

The way that I see the transactions, it is absolutely imperative for us to be able to speak the languages of the people with whom we are dealing. Much is lost in the translation, and with the Asians and with the Latin Americans, so much depends on a communal feeling, a friendship feeling. As Frank Carroll stated last night, or someone did, they spent 9 days with some Chinese and they didn't bring up the details of the proposals until the 7th day.

We know how it is with the Japanese. It is just simply very important for men to drink with men in Japan. It is characteristic. It is their world.

The Moslem world has its own cultural approaches to business, and speaking the language is vital.

Physics is vital. We are losing out there.

I belong to Senator Hayakawa's group that believes that English should be the language of the United States. Until recently, all of the peoples had to learn and be familiar with English for their own progress upward in society. We mustn't become fragmented as the Canadians have. There is much to be said for this.

Larry.

Mr. STANLEY. Again, I would like to lend support to what is being said here. Having three children who have gone through the school system and with the last one in college now, and all three of

them having been involved in at least one foreign language, I think there is one thing to be said with it. In fact, there are two things I would like to say, the first one being that once you learn one foreign language, the additional ones come much more easily, particularly if you regionally stay in the same general area such as Europe.

The second thing is one reason I put some additional support into this is, I see since we had previous discussions we are talking about really the ages of 5 to 17. I know from the observations of my own family's that the younger they get started, the quicker they are to grab a hold, just as they are with almost everything in life.

So, I think it is important that we do what we can to encourage the expansion of foreign languages throughout the K through 12 years.

Mr. MUDGE. Are there any further expressions? Judy.

Ms. MCCOY. Shaw, I think another aspect of this which is critical is that it is giving grants to help people put such programs together. I think that many of our small school districts have dropped it over the years and would have difficulty doing such a thing were it not for the way this proposal is put together. If you read the bill as we were given it yesterday, it gives us a sense for the purpose of what this act will do.

I think it is a real incentive for all schools to offer foreign languages and, as Larry said, once you learn one, it is much easier to pick up another one later and you learn that skill of how you go about acquiring a new language.

Mr. MUDGE. Yes, Ed.

Mr. SMITH. I would like to say that I feel this is a very important issue to us all, but I feel like this needs to be left to the State level. I know many States are currently reevaluating their educational standards. I am proud to say Arkansas is one of those. I think this is something that they will be considering and they will be customizing their foreign language program for their particular State.

I think any time you can leave something on the State level and keep it out of the Federal bureaucracy, you are going to be much better off.

Mr. MUDGE. Herb Bowden.

Mr. BOWDEN. I would just like to agree with what Ed has said here. We have wrestled with this problem in our small State of South Dakota the last 2 years and just passed a law that said that all children graduating from high school must have a foreign language. It has, of course, met with a lot of controversy, but we have taken care of it and I am sure there are a lot of others the same way.

I really do not like to see this get at the level of the Federal bureaucracy.

Mr. MUDGE. Yes, Chuck.

Mr. CRAWFORD. While I really don't want to speak against this resolution because any aid to education is a positive step and I therefore will vote for it, it is worth commenting that really what should be done here is increase the knowledge of our youngsters of foreign cultures rather than specifically focusing on foreign languages.

The language translation problem is going to be solved technically over the next generation. To focus the resources on training our youngsters to speak foreign languages when that can be done by machine is probably not the best way. It would be better to take those resources and say given they can now converse with foreign nationals, let's understand their culture so we know what they mean by all these gestures and actions and business practices.

Ms. BALL. If I may say, you mentioned the time element of several decades ahead.

Mr. CRAWFORD. Not several decades but within a generation.

Ms. BALL. All right, within a generation. I feel that commerce is so important that we should not waste so much time nor should so much time elapse. We should make every effort that grants either on the State level or the Federal level be instituted. In the meantime, until the machines or whatever you call them and translation services will be instituted, we have to communicate. I think the personal communication, the personal touch, is so vital that we absolutely institute this soon and perhaps experimentally in one State, but we should give it a chance.

All business dealings are conducted with humans. Certainly, if we go overseas and want to speak to these other business people, we should know something of their language and not rely only on translators.

Furthermore, another language to a child is something that enriches the child's mind. I have two granddaughters– I am a grandmother and proud to say it—who speak three languages fluently because they were brought up in a country where other nations border. In order for them to communicate, they have to speak other languages.

A child's mind is so ripe for languages, believe me, gentlemen and ladies.

Mr. MUDGE. Mike.

Mr. LEFKIADES. Being one of the few people here who is bilingual, I would like to express an opinion on this.

Mr. MUDGE. Can I try your patience, Michael? We have three issues to resolve in 20 minutes.

Mr. LEFKIADES. Sure. The importance cannot be possibly measured of this resolution. It is elementary if we want to instill a new sense of direction in our educational system. It is very, very important.

There is a bill pending in Congress right now, S. 1631. It was introduced by Senator Simon. I would strongly urge this committee to add to the resolution that we strongly support this particular bill and go on record as doing so.

Mr. MUDGE. I will call on Ed Smith again.

Mr. SMITH. I would like the Council to consider an amendment changing the "Therefore, be it resolved that" to read "appropriate resources be directed to State and local educational agencies for the improvement of foreign language study for children from age 5 to 17."

That way, it would be a little more general in nature, and I don't think it would take the teeth out of it. It would just allow the Senate Small Business Committee to consider whether this should be done on a Federal basis or directed down toward the States

where I really feel the big improvements can come from. States are going through a complete overhaul right now as far as their educational systems are concerned, and I think that is where we could get the quickest action taken.

It is not a discussion of whether this is needed or not. Most everybody realizes it would be great if we could put a little more umph in our foreign languages. I think the question is who does it, where does it come from, and I think we need to leave that open so that this is free to go where it can best be taken care of.

Ms. BALL. There are also two words here that Mr. Bowden would like to add in paragraph 3: "Of the other side's language and culture." Is that correct?

Mr. BOWDEN. Yes.

Ms. BALL. And in the "be it resolved," in the third line, "of foreign language and cultures."

Mr. HENNESSEE. Can I make a comment, please?

Mr. MUDGE. Wait, please, Odus.

Please, Asta, do that again.

Ms. BALL. In the "resolved" paragraph, Mr. Bowden mentioned that it should read—and that is the second line from the bottom—"of foreign language and cultures." In other words, twice insert the words "and cultures."

Mr. BOWDEN. We made the point earlier, I might say, that it is language and cultures that we need in order to increase foreign trade and then from there on we drop the word "cultures." It would make it much better for me if we combined them.

Ms. MCCOY. Shaw, could I ask which resolution? We have two different sheets here, and I think there is some confusion about that on this particular one. I guess I thought we were doing the one which talks about a specific bill, S. 1631, which makes grants is what it says which I think answers part of Ed's problem. I just realized Odus has a different one in front of him than I have.

Ms. BALL. This is the revised one.

Ms. MCCOY. Do you want to read that to us, just the resolved clause?

Ms. BALL. "The Senate pass S. 1631, a bill directing the Secretary of Education to make grants to State educational agencies for the improvement of foreign language"—and we added the words "and cultures"—"study for children from age 5 to 17."

Ms. MCCOY. That talks about grants.

Mr. MUDGE. Then could we ask Ed to just fit that in?

Mr. SMITH. Basically, I would be taking out the Senate bill——

Mr. MUDGE. Ed's is an alternative.

Mr. SMITH. I suggest taking out the Senate bill and changing it to read, "direct appropriate resources to State and local educational agencies for the improvement of foreign language and cultures study for children from age 5 to 17."

Ms. BALL. Mr. Chairman?

Mr. MUDGE. Yes, Asta.

Ms. BALL. Has a copy of S. 1631 been passed around to my colleagues?

Mr. SMITH. I have it. That is the one I am working off of.

Mr. MUDGE. The actual bill or the resolution?

Ms. BALL. No, this bill from Senator Simon.

Mr. MUDGE. Go ahead, Odus.

Mr. HENNESSEE. Very simply, I go back to what I said. I think what we are doing here is putting the cart before the horse. It is the same old problem. You talk about 5 to 17. I think that again some kind of a national study should be done—and I object just as strongly as anybody on this committee, I am sure, about the Federal Government getting involved in education. I believe the local and the State level is where that ought to be beyond any shadow of a doubt.

However, we still are going to grant money in the proposal to educate kids that are 5 to 17, and we have no idea of whether we have the capability to provide the essentials necessary, and that is the teachers, the facilities, and so on and so forth. I think what we have to look at is if we don't have the facilities, don't have the teachers, then the first effort should be made at the college level to find those people and maybe the high school level to get that started.

Unless we know that, we are wasting our time. I don't believe we know that. I know in Lawton, OK that my wife, who happens to be an English teacher, told me that they couldn't even find anybody to teach Spanish.

Do you understand what I am saying?

Ms. BALL. I understand what you are saying.

Mr. MUDGE. Chuck.

Mr. CRAWFORD. With regard to that particular point, if you will note the amount of money being appropriated, it is so small that there are certainly enough teachers to take care of this amount of money.

Mr. HENNESSEE. Well, you know, again, I will make another comment about that. You are talking about a small amount of money, but you put all that stuff together and I think you are looking at our budget deficit. You add all that stuff up and you keep on saying, well, this is just a small amount of money, but that is not the point. Wasted money is wasted money.

Mr. MUDGE. We are going to call for a vote now on the two separate resolutions. We will ask Asta to present hers first and then Ed will present his.

Mr. CRAWFORD. Mr. Chairman, could we perhaps choose between the two bills first and then see if either bill can pass rather than just voting between the two? There may be people who don't want to vote for either.

Mr. FUENTES. We have already taken a straw vote on one.

Mr. MUDGE. Well, that was just to get a sense before this meeting. That was just to get a feeling of where we were so we could adjust the agenda, because there were ideas expressed that came up prior to that straw vote which indicated that we should allow more time for this than we originally thought.

Mr. CRAWFORD. Could we perhaps vote for Asta's first and then see if people want to put Ed's modification in it?

Mr. MUDGE. Go ahead, Asta.

Ms. BALL. I have one final comment. Whatever the outcome of the votes on these two resolutions, I am very happy and gratified that so much attention has been stimulated by this discussion. Thank you.

Mr. MUDGE. OK, Asta. Please read your amended resolution.

Ms. BALL. "Therefore, be it resolved that the Senate pass S. 1631, a bill directing the Secretary of Education to make grants to State educational agencies for the improvement of foreign language and culture study for children from age 5 to 17."

Mr. MUDGE. All those in favor of Asta's resolution as read and amended please signify by raising of the right hand.

[Show of hands.]

Mr. MUDGE. Thank you. And, Ed Smith, please read your resolution.

Mr. SMITH. "Therefore, be it resolve that appropriate resources be directed to State or local educational agencies for the improvement of foreign language and culture study for children from age 5 to 17."

Mr. MUDGE. All those in favor kindly raise their right hands.

[Show of hands.]

Mr. MUDGE. Thank you very much. Asta's resolution prevails.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON FOREIGN LANGUAGE STUDIES

Whereas, small business is a critical segment of our national economy;

Whereas, in 1983 imports and exports made up nearly one-fourth of the gross national product of the United States;

Whereas, it is impossible to participate in fruitful trade negotiations without knowledge of the other side's language and culture;

Whereas, for the American business sector to become more successful globally, more attention must be directed toward a complete understanding of foreign languages and cultures;

Whereas, the United States is the only industrialized country in the world where a person can graduate from high school and college without having studied any foreign language;

Whereas, so little attention has been paid to the subject of business translation that the Library of Congress has not one single title in the field.

Therefore, be it resolved that, the Senate pass S. 1631, a bill directing the Secretary of Education to make grants to state educational agencies for the improvement of foreign language and culture study for children from age 5 to 17.

Mr. SIMPSON. Let's have all those opposed.

Mr. MUDGE. Oh, OK. All those opposed. I am sorry, Jim.

[Show of hands.]

Mr. MUDGE. Thank you.

Ms. KRUGLICK. I am sorry, what were you voting then?

Mr. MUDGE. Those opposed to Ed's bill.

Ms. KRUGLICK. How about those opposed to both bills?

Mr. MUDGE. OK, all those opposed to both bills.

[Show of hands.]

Mr. MUDGE. Thank you.

Walter Floss, please lead the discussion on liability.

Mr. FLOSS. What we tried to do was rather than zero in on Senator Danforth's bill because it is undergoing changes—I went through it carefully last night, and I could see some things in the title III section that businesses may be objecting to—and rather than zeroing in on a bill, I am zeroing in on a problem and asking that the Senate address this problem in some fashion or other before long.

What we are doing is particularly targeting on product liability to be handled on a Federal level, because I feel that is the proper

place, and also apprising them of a general liability problem that small business is having so that they can at least have that under advisement and be sort of on a stand-by situation if State houses don't address it pretty soon.

The resolve, then, is "that this advisory board pause in its deliberations and memorialize the Congress of the United States to enact legislation embodying Federal uniform product liability standards preempting State laws, retaining fault, not strict liability, as the standard of liability and specifically reforming tort doctrines in the area of joint and several liability; caps awards, and strongly discourages frivolous lawsuits;

"And further provides a comprehensive solution to the unaffordability and unavailability of general liability insurance for small business."

I move its adoption.

[Proposed resolution follows:]

RESOLUTION IN SUPPORT OF PRODUCT AND GENERAL LIABILITY INSURANCE REFORM

Whereas, The unavailability and unaffordability of liability insurance coverage for the small business community has reached crisis proportions; and

Whereas, This crisis has substantially affected the ability of small business in our nation to continue to grow, thrive, and provide new jobs for our nation's citizens; and

Whereas, The various states have passed or are passing legislation which results in confusion as to the liability of both insurers and the insured; and

Whereas, 70 percent of all manufactured products are sold outside of the state of manufacture; and

Whereas, Consumers in particular have been adversely affected by this growing liability burden on commerce through the withdrawal of products and producers from the national market, and from excessive liability costs passed on to them through higher prices; and

Whereas, The unpredictability of product liability awards and doctrines has added considerably to the high cost of product liability insurance by making the accurate prediction of risk virtually impossible; and

Whereas, The recent explosive growth in product liability lawsuits and awards is jeopardizing the financial well-being of many key industries and is a particular threat to the viability of many of the Nation's small businesses; and

Whereas, The extraordinary costs of the product liability system undermine the ability of American industry to compete internationally, and is causing the loss of jobs and productive capital; and

Whereas, The unacceptably high transaction costs of the product liability system, in which nearly twice as much money goes to lawyers as to compensate victims, is a burden on the consumer and American industry which can no longer be tolerated; now, therefore, be it

Resolved, That this advisory board pause in its deliberations and memorialize the Congress of the United States to enact legislation embodying federal uniform product liability standards preempting states laws, retaining fault [not strict liability] as the standard of liability and specifically reforming tort doctrines in the area of joint and several liability; caps awards and strongly discourages frivolous lawsuits;

And further provides a comprehensive solution to the unaffordability and unavailability of general liability insurance for small business.

Mr. MUDGE. Are there further comments?

Mr. LEFKIADES. Right here.

Mr. MUDGE. Yes, Mike.

Mr. LEFKIADES. This is very, very important, and I would like a couple of extra minutes if I may ask your indulgence.

Mr. MUDGE. Two.

Mr. LEFKIADES. I have a report in my possession from the U.S. General Accounting Office. It was released Monday, April 28, 1986. That is the day before yesterday.

I will not attempt to read the entire report, but perhaps I can have your indulgence in reading the conclusions of the General Accounting Office pertaining to this particular issue. And I quote:

Conclusion:

In conclusion, Mr. Chairman, available financial information for a recent 10-year period indicates that the profitability of the property casualty industry is a cyclical nature. The date further indicates that over this period, the industry has been generally profitable. The industry's profitability has been lower in recent years.

However, the industry projects increasing premium volumes and no favorable prospects for the next five years. The data also show that while medical malpractice and general liability insurance have received considerable attention recently, they represent a relatively small portion of the industry overall.

Finally, our calculations show that for 1984, these lines could have broken even with smaller increases in premium rates than some premium rate increases that have been reported in the media.

With that conclusion, Mr. Chairman, we will be pleased to respond to questions.

Mr. MUDGE. Thank you.

Red Tindol.

Mr. TINDOL. I have been active in this thing on a State level like most of you have, even as spokesman for the coalition in Georgia. I want to tell you that this matter of who is at fault has been bashed around so much until I feel like Rhett Butler's statement to Scarlett, frankly, I don't give a damn whose fault it is. My oxen are in the ditch.

You can argue it any way you want to, but as far as I am concerned, let's at least make some positive recommendation on this thing.

Mr. MUDGE. Thank you very much, Red.

Are there further comments, please? Frank Carroll.

Mr. CARROLL. I support Walter Floss' bill here because he is right. We have to do something. We have to get off dead center and do it.

Mr. MUDGE. Shall we call for a vote, then, if there are not further comments? All those in favor of Walter Floss' resolution please signify by raising their right hands.

[Show of hands.]

Mr. MUDGE. Those opposed?

[Show of hands.]

Mr. MUDGE. The resolution is adopted. Thank you very much. We call on Red Tindol now for his resolution.

Mr. TINDOL. You have the resolution on legislation limiting the use of polygraph tests by private sector employers. Will you refer to it, please?

In the first sentence, "Whereas many private sector businesses, including pest control companies,"—I would like to substitute "service companies." It seems to single out pest control companies, and we are just a small segment of the service companies that go into homes and into places of confidentiality.

Also, down on the last paragraph, before "legislation" should be "Initiate" to make it "Initiate legislation."

I hope that this resolution that we have changed somewhat to say "withhold consideration of the Senate and House legislation on polygraph testing in the private sector" will satisfy the situation of anybody who has trepidation or any concern about it. I don't want to force anything that you are not familiar with or even suggest

that you have to entertain that. It is a major problem to service organizations and to those stores and the banks and the savings and loans and all that have been mentioned up here in the first paragraph.

To those of you who expressed yesterday that you had any experience in this or need for this type of thing, I understand that. I am not trying to force anything. Therefore, the "1" and the "2" down here do not take a firm action saying don't pass this or don't pass this. All it is asking is a delay until more impact can be made upon these considerations.

Thank you.

[Proposed resolution follows:]

RESOLUTION ON LEGISLATION LIMITING THE USE OF POLYGRAPH TESTS BY PRIVATE-SECTOR EMPLOYERS

Whereas, many private-sector businesses, including service companies, retail stores and banks and savings institutions, use the polygraph as an effective management tool and as a means of company and customer security;

Whereas, polygraph tests have been shown to be up to 90% accurate and employers have few or no other effective means by which to examine employees' employment background and on-the-job activity;

Whereas, the polygraph has been used successfully for years by the military and several private sector businesses, and regulations governing the administration and use of such tests have been improved by state and federal legislation; and,

Whereas, the U.S. House of Representatives has passed legislation which would prohibit, with certain exceptions, the use of any type of lie-detector test by a non-government employer engaged in interstate commerce on any employee or prospective employee, and similar legislation has been introduced in the Senate and is presently under consideration by the Senate Labor Committee;

Therefore, be it resolved that, the National Advisory Council to the Senate Committee on Small Business calls upon the Congress to:

1. Withhold consideration of the Senate and House legislation on polygraph testing in the private sector, specifically H.R. 1524 and S. 1815, until the businesses that use the tests as an effective management tool have been given the chance to explain the severely adverse effect this legislation could have on their businesses; and,

2. Initiate Legislation improving the standards for the administration of polygraph tests be enacted rather than legislation which would completely prohibit the use of such tests by most private sector businesses.

Mr. MUDGE. Are there further comments?

[No response.]

Mr. MUDGE. Red, in the first sentence where you say, "Whereas many private sector businesses, including" in view of your comments, would you want to say "especially service companies" or leave it "including?"

Mr. TINDOL. Leave it "including."

Mr. MUDGE. OK. Are there other comments on this? Chuck.

Mr. CRAWFORD. It should be pointed out that this is a general problem for all business, not just service business. Manufacturers and laboratories have amounts of dollars of equipment sitting around which are at least as great as anybody's house. A reasonable view is that H.R. 1524 and S. 1815 should be both voted down in their entirety.

Mr. MUDGE. Additional comments? Fred.

Mr. MOHS. I totally agree. I think anyone who is dealing with matters that are confidential has to protect himself anyway.

I just believe in lie detectors. I was actually trained in them when I was in the military police. I think it is a useful tool and a tool that can be effectively used to protect businesses and society.

Mr. MUDGE. Tim.

Mr. FINE. The way I have to look at it is, I think each of us has to, as ourselves, because I think we have to be willing to stand up, not for the other guy, but for ourselves, and that is, if you applied for a job with a private company such as, let's say, General Motors, would you personally object to taking such a test? Would you personally be willing to take such a test? Would you willingly submit to such a test as a condition of application with an employer?

If you are, I think you should vote for it. If you personally would be insulted by it as an individual, then I think you would have second thoughts.

Mr. MUDGE. Alan.

Mr. FUENTES. I agree with this resolution. Just recently, I had a lady, a live-in housekeeper, polygraph-tested, and after the polygraph test, I guarantee you I felt much more comfortable with her living in the servant's quarters than I did had I not had that test taken. So, I support this 100 percent.

Mr. MUDGE. Walter.

Mr. FLOSS. To answer Tim Fine, I would not mind being requested to take this test because I have the utmost confidence in the fact that I would prevail and, therefore, it would give you one more notch up.

Mr. MUDGE. Herb.

Mr. BOWDEN. I will try to make it short. I don't particularly see this as a service from where I am and I have never believed in it that much. I would support the resolution simply because I am afraid that if we would lose one of these testing methods, then we couldn't give personality profile tests or technical tests, and it would be carried on to no end.

Mr. MUDGE. If there are no further comments, would someone please call for the vote?

Mr. LEFKIADES. Just one more comment, Mr. Chairman. We are assuming something not in evidence or in fact. We are assuming that the machine is accurate. That is not the case. The machine does make mistakes, and the machine is not perfect. The machine can be a terrible, terrible instrument on the part of an employer who has some sort of a monopoly in a locality, particularly in a small town and in a small area.

I will give you a perfect example. If the Dow Chemical Co. wants to use a lie detector machine in Midland, MI, if you don't pass the test, you will be unemployed for life or you will have to leave town.

So, you have to consider those implications. No. 1, it has not been scientifically proven that it works. No. 2, it is an instrument of ostracizing citizens from their communities. No. 3, I feel it is an unwarranted intrusion into our basic civil liberties.

Mr. MUDGE. Ed Smith.

Mr. SMITH. I totally agree with what you said, and yesterday I would have voted no to this resolution. However, after reading it more carefully, I realize that what Mr. Tindol is saying is that he wants to stop the process long enough to gather up more information, talk to industries that would be affected, and make a better decision based on better information.

Considering that, I have no problems with this. I am also not confident in the lie detector equipment. At the same time, I am not that well versed in it.

I wouldn't subject my employees to it, but there are situations I am sure in which it is a big benefit. Because of the way the resolution is worded, I will have to vote for it.

Mr. MUDGE. One last comment from Red Tindol.

Mr. TINDOL. It is true that they are only, according to records, about 90-percent effective or efficient in the unit. We are not proposing that they are 100 percent or that that is the last answer. What we want to do is give the States, for instance, time enough to do this. You talk about 31 States that have already passed improvements in the polygraphing methods and the licensing of polygraphers and all, and that is what we want to do is let it come from the States with the improvements in this thing and not make it a Federal mandate that you cannot give someone a test who really needs it.

Mr. MUDGE. Yes, Fred.

Mr. MOHS. I would just like to say in response that some people don't understand how you run one. It is a method of really verifying questions and answers, and it is not something that you strap on a machine and it says lie or not lie. It is more complicated than that, and it goes into the interview process.

So, there is a high degree of judgment and subjective judgment on the part of the interviewer that is part of it. It isn't just the machine itself where it says lie or not.

It is highly effective if run by competent people. So, it is an interview technique, really, an enhancement of an interview technique.

Mr. MUDGE. Asta.

Ms. BALL. Who would establish the norm of the questions to be posed? Would they be taken from the private sector or prescribed by a State?

Mr. TINDOL. That is not addressed in this bill that has been proposed. The States are now addressing this thing. Like I said, 31 States have passed laws pertaining to this in which they refine and define the type of questions.

We all know it is not a legal defense in court, anyhow. I mean, it is just a matter that we use it as a matter of determining, along with other factors, whether this employee or potential employee is worthy of consideration.

Ms. BALL. Would this test, in your estimation, sort of take precedence over a total knowledge and perhaps a test on your knowledge regarding the job you are going to be doing?

Mr. TINDOL. It is just one instrument. It is just one method of the total picture. It is not the last answer. We have never used it as a total.

In fact, I can tell you this much. We have never had it where they failed in some regard or they appeared to be not telling the truth. We give a second test always. We never take just one test. We give a second test by a different polygrapher.

I think that is the role that the States are taking in defining and in licensing the ones who give the polygraphing which, as somebody mentioned, is the most important thing about it.

Mr. MUDGE. Chuck.

Mr. CRAWFORD. Two quick points. First, the validity of tests is an important issue. It is a valid issue, but it is not the issue being addressed at the moment. The question is whether certain kinds of tests should be prohibited.

If you accepted these bills, the invention next year of a 100 percent reliable test would be prohibited, and that is not a good way to run the Government.

The second issue, I think, is that all businesses, small and large, are being held liable for the actions of their employees. If an employee steals or commits another felonious act or simply proves incompetent, the employer is liable.

It would seem it is fair and reasonable to give the employer the maximum freedom possible in choosing his employees subject to the constraints of fairness and the groups where discrimination is prohibited, for example, race, color, gender, or age.

Mr. MUDGE. OK, we will call for a vote. All those in favor of the resolution as amended which included the word "service" and the word "initiate" after No. 2, please signify by raising their right hand.

[Show of hands.]

Mr. MUDGE. Opposed?

[Show of hands.]

Mr. MUDGE. Four opposed. The resolution is passed. Thank you very much.

We are 3 minutes over our time. Are there any further issues you would like to bring before the meeting?

Mr. FLOSS. I think it would be a good time, because it would only take a minute, why don't we talk about Congress adopting the line-item veto for the President? [Laughter.]

Mr. FINE. I have one thing which is much more immediate which we are all concerned about. Most of you in the room here are probably going to be at the White House Conference on Small Business in August. Shaw Mudge, Bill Nourse, and myself are delegation chairmen, and then others are delegates.

But we are now seeing some very rigid rules adopted by the White House Conference that is going to limit our ability as small business people to get our views adopted at the conference. I think it is designed to try to prevent any kind of embarrassment to the administration.

So, I would like, Mr. Chairman, to make a resolution that the White House Conference on Small Business be urged not to adopt any rigid rules regarding the conduct of the conference and, rather, let the delegates and alternates decide what the rules should be so that we have the ability to make our views on small business known to America and not have to run the gauntlet of a very structured type of conference where we cannot maneuver.

Mr. MUDGE. Frank.

Mr. CARROLL. Mr. Chairman, before we adjourn, I would like to bring a resolution to the floor that I passed out during the discussions. Mr. Fine first, if you want.

Mr. MUDGE. Well, was that a resolution which did go on?

Mr. FINE. Well, it is not in writing, but it is a matter which has recently come up. Several chairmen, the chairman of the Illinois

delegation has written a letter to the White House Conference, the chairman of the Massachusetts delegation has written a letter.

Mr. MUDGE. It came up in New Orleans, too. It was a centerpiece of the New Orleans activity back there a couple months ago.

Mr. FINE. What I would say is resolve that the delegates and alternates to the White House Conference on Small Business select whom they want to be on the rules committee and that the rules committee and the delegates and alternates adopt the rules for the conduct of the conference and that it not be unilaterally imposed upon us by the staff of the White House Conference.

Mr. MUDGE. All those in favor please signify by raising your right hand.

Mr. FLOSS. Is this a resolution for this group?

Mr. MUDGE. Yes; it is a resolution by this group. Signify by raising your right hand.

[Show of hands.]

Mr. MUDGE. Opposed?

[No response.]

Mr. MUDGE. None. It is unanimously carried.

Frank Carroll.

Mr. CARROLL. Mr. Chairman, I wanted to bring a resolution on the floor. Very briefly, we are all talking about competition with the various foreign countries, those of us engaging in exporting and importing. I wanted to bring a resolution on the floor that: Should the Congress authorize foreign aid in the form of technical assistance and training for Chinese to train on the use of American products that 50 percent of the funds be set aside for small business as defined by SBA.

Actually, what it is, is that countries with technical assistance programs have the competitive advantage to the United States, and the Foreign Assistance Act was amended recently that would allow foreign assistance in the form of technical training to China.

My concern is that should a bill be filed on the floor, and I understand that there might be one, that big business will get in here like they have in the past and support the bill, which is fine, but those of you around this table who are in either high technology or manufacturing or even the service businesses who could use a trainee in your business and on the theory that when that trainee goes back to China, they would be most likely to buy American products.

Our allies do this now, Germany, Australia, Canada. In some countries like Australia, they have a revolving fund of $25 or $30 million geared toward taking in Chinese trainees—or actually other countries but basically Chinese—train the Chinese in their own factories so that when the Chinese go back to their countries, they are trained on Japanese products or on Australian products or on German products, and they will most likely buy those kinds of products when they go back to China.

Now, if we look down the road and the China market opens up, I don't know of anyone in this room, quite frankly, who would not benefit by this kind of a resolution.

My concern is making a statement to our Senators saying that should the Congress in its wisdom feel that they want to make our exporting market more competitive that we would like 50 percent

of the funds set aside for small business. I define small business by SBA standards.

Some of us may not agree with SBA standards in the sense that they are too big, but I thought in the interests of brevity that at least you would have something to say all right, you may not consider a business of 500 employees small, but that person may.

That is my resolution, Mr. Chairman.

Mr. MUDGE. Are there further comments?

Mr. SMITH. Should we not change the word "Chinese" to "foreign countries"? That way, it is not quite so specific.

Mr. CARROLL. I don't mind that, but I am particularly concerned about the American companies, everyone around this table, being kept out of the China market by not having access to the possibility of training a Chinese in your factory. And if there is a bill on the floor, it will be specifically for China.

I just don't want to see the American manufacturers cut out of this market or from our point of view, because IBM will get all the trainees.

Ms. BALL. I think you make a very good point that it should include other countries, because very, very recently, American technology was sent to Austria and the Austrians turned around and sold it to other countries. So, I don't think we should make an issue of one nation and delineate that nation.

We have a parallel case where Mr. Thurmond has introduced a bill that goes along the lines of what you had to say.

Mr. MUDGE. We are running out of time. Should we vote on this now? All those in favor of Frank Carroll's resolution please signify by raising their right hand.

Mr. SMITH. Did we amend it?

Mr. MUDGE. No; just with the Chinese, not with the amendment. Frank's resolution addresses a bill that pertains to Chinese that is coming on the floor. There is not a general bill coming on. There is a bill coming on affecting China.

Mr. CARROLL. Basically, I don't want to see anyone in this room or any American business, high technology or not, excluded from the China market. That is my concern.

Mr. MUDGE. It is in connection with a bill as it is written.

Mr. SMITH. Couldn't we attach a note saying specifically the Chinese market or something so that it says "foreign countries" yet we let them know this is what we are talking about.

Mr. CARROLL. Well, if we can accomplish the same thing, I am in favor of it.

Mr. MUDGE. I would like to have the words on that. It is too general. Give us the words.

Ms. ABLAN. "Chinese and other foreign countries."

Mr. SMITH. That is good.

Mr. MUDGE. Chinese and other foreign countries. All those in favor of the resolution as amended please raise their right hand.

[Show of hands.]

Mr. MUDGE. Opposed?

[No response.]

Mr. MUDGE. No one is opposed. The resolution is passed. Thank you very much.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL COUNCIL ON BILATERAL AID FOR TECHNICAL TRAINING AND ASSISTANCE TO CHINA AND OTHER FOREIGN COUNTRIES

Should the Congress authorize foreign aid in the form of technical assistance and training for Chinese and other foreign countries to train on the use of American products, that 50 percent of the funds be set aside for small businesses, as defined by SBA.

Mr. CARROLL. Thank you very much.

Mr. MUDGE. The Chair would be interested in a motion to adjourn.

Mr. CRAWFORD. So moved.

Mr. MUDGE. All those in favor kindly rise.

[Whereupon, at 12:11 p.m., the council adjourned.]

60-634 (52)